

February 4, 2002

Federal Communications Commission
Washington, D. C.
[via Electronic Comment Filing System]

Re: Reply Comments on Proposed Rulemaking: CC Docket No. 01-318

Summary of comments:

- While national standards can be of use in defining service quality requirements, States must retain flexibility concerning what items to measure, the geographic scope of the requirement, and the service territories and companies that should be covered by the rules.
- Rules should not sunset automatically. A rule should be eliminated only when an affirmative showing can be made that it is no longer needed.
- The FCC should make its ruling in this docket expeditiously to improve the stability and predictability of the environment for competition.

The Oregon Public Utility Commission (OPUC) supports the Federal Communications Commission's (FCC) efforts to establish national service quality standards for selected services offered by the incumbent local exchange carriers (ILEC) and competing local exchange carriers (CLEC) that rely on their services, with the caveat that states must be able to make adjustments to those standards, as needed, to take into account local circumstances. The service consolidation and mechanization efforts implemented by the large ILECs have resulted in multi-state business centers. These consolidated centers use common personnel, equipment and management planning. Even while consolidated, these centers must operate within the bounds of the laws of the states in which they provide service. A national set of rules that leaves flexibility for individual state circumstances would be an appropriate means to set and enforce service quality standards. We support the comments of other state commissions and their staffs that advocate flexibility for states (California, Colorado, Minnesota, Missouri, New York, Ohio, Oklahoma, Texas), as well as those of the National Association of Regulatory Commissioners (NARUC) and the Association for Local Telecommunications Services (ALTS) that the FCC should not preempt state efforts in this regard.

Under ORS 759.450, we are reviewing similar "wholesale service quality rules" in our Docket No. AR 324. One of our agency objectives for 2002 is to "Ensure high levels of technical service quality in a competitive environment." The AR 324 investigation is one

aspect of our commitment to continued high quality of service to consumers. We hope to incorporate consideration of the new FCC rules into our docket in the near future. We may want to make our rules apply to all carriers in all areas of the state and ask that, even if the FCC decides to limit the applicability of its own rules, that states not be limited in their ability to go beyond the boundaries set by the FCC if they believe it is in the public interest to do so.

Under consideration in our proceeding is a measurement related to the billing function. Even if the scope of the FCC rules do not include any measurements in this area, we ask that states be able to include additional measurements both within categories of measurement adopted by the FCC and to add new categories of measurement if they find additional measurements are needed.

As to the geographic scope of reporting, Oregon will want to obtain data for operations within its state boundaries. An FCC reporting requirement by state would probably add little burden beyond that which states themselves would want to impose. Some states, as Texas has pointed out, may need more detailed reporting. This option should not be precluded by FCC rules. Other states may find that they, too, need more flexibility in determining how to segment their states for reporting purposes.

The key goal is to ensure that there is an open, competitive marketplace for telecommunications services. While we agree that reporting requirements can be burdensome, that burden must be weighed against the consequence of service quality so poor that competing carriers are unable to enter into or remain in the marketplace. In the interest of creating a stable and predictable environment for competition, the OPUC joins with ALTS to encourage the FCC to expedite its rulemaking process to make clear and precise rules under which a competitive telecommunications market can operate.

The implementation of the Telecommunications Act of 1996 has been a long and arduous task, taking longer than many parties anticipated. Given that no one can predict when the marketplace will be mature enough that service quality rules are no longer necessary to protect consumers, we believe that it is not appropriate to set a date certain upon which these rules would sunset. Although we have no comment on the specific mechanism to be used, we agree with the Ohio Public Utilities Commission that an affirmative determination must be made that a requirement is no longer necessary before it is eliminated.

Roy Hemmingway
Chairman

Joan Smith
Commissioner

Lee Beyer
Commissioner